

# Tech Policy Background

## Technology Policy Leadership

Representative Rick Boucher:

### Legislative Initiatives Regarding the Internet and Information Technology

U.S. Representative Rick Boucher, serving his eleventh term representing Virginia's Ninth Congressional District, is at the forefront of federal information technology policy making. He has a long history of involvement in and a deep knowledge of advanced telecommunications and information technology matters. He also extensively examines the intersection of technologies and copyright law, authoring legislative measures to promote technological innovation and the rights of consumers while ensuring that creators of intellectual property are fairly compensated.

Beginning with his work in the 1980s on the policy challenges of the emerging satellite television industry and the convergence of cable and telephony, and continuing with his extensive work in Southwest Virginia promoting the use and deployment of information technology, he has been quick to recognize the possibilities and benefits of information technology advances. He has led a range of legislative initiatives promoting the growth of the Internet as a transformative communications medium that supports electronic commerce, enhances educational opportunity, and advances U.S. global leadership in the digital economy.

As the only Member of the House to serve on both the Energy and Commerce and Judiciary Committees - the two committees most involved in crafting Internet and information technology policy - Representative Boucher is uniquely situated to lead Congressional efforts in the information technology arena.

Congressman Boucher originated the Congressional Internet Caucus in 1996 to serve as an educational resource for the Congress about the potential of the Internet. This bipartisan caucus has grown to more than 170 members of the U.S. House and Senate. Congressman Boucher currently serves as one of the two House co-chairs of the caucus.

Below is a brief outline of some of the information technology initiatives which Mr. Boucher has led:

## ENCOURAGING EARLY GROWTH OF THE INTERNET

- Boucher Authored the 1992 Law Which Allowed the First Commercial Traffic on the Internet

During the 102nd Congress, Congressman Boucher served as Chairman of the Science Subcommittee of the House Committee on Science, Space, and Technology. The jurisdiction of his subcommittee included the National Science

Foundation (NSF), which operated the backbone of the Internet, known then as the NSFnet. In that leadership position, Representative Boucher held the first Congressional hearings on subjects relating to the Internet and Internet policy. The findings of these oversight hearings led him to take groundbreaking steps to alter the ways in which the Internet functioned.

At that time, access to the Internet backbone was limited by the NSF's Acceptable Use Policy. This restriction, contained within the National Science Foundation Act, prohibited commercial traffic on the Internet by requiring that all Internet traffic be educational, scientific or research-oriented. Keenly aware of the vast commercial potential of the Internet, Congressman Boucher authored legislation to repeal the Acceptable Use Policy, replacing it with language that for the first time permitted commercial traffic on the Internet backbone. His legislation to permit commercial use of the Internet was signed into law by President Bush on November 23, 1992.

#### - Boucher Oversaw Transition to Private Control of the Internet

Congressman Boucher's subcommittee also guided the transfer of control of the Internet backbone from the federal government to the private sector, ushering in a new era of electronic commerce, enhanced educational and telehealth opportunities, and e-government initiatives.

## INITIAL COMMUNICATIONS INITIATIVES

Congressman Boucher's legislative work in communications spans the past 20 years:

- In 1986 he proposed the first Home Satellite Viewer Act, and he mediated the negotiations between broadcasters and satellite carriers that led to passage of the initial Act in 1988. The law for the first time permitted homes that cannot receive an adequate over-the-air signal from local TV stations to obtain network programming delivered by satellite. In 1999 he was a principal architect of the revision in the law which enabled satellite carriers to offer local TV programs along with their national programming.

- In 1988, Congressman Boucher introduced with then-Senator Al Gore the first local telecommunications competition legislation. The Gore-Boucher bill encouraged telephone companies to compete with cable TV companies by removing the legal barriers to that competition. They believed that the measure would both hold cable rates in check and encourage telephone companies to deploy fiber optic networks over the "last mile" in order to carry multi-channel video. Their measure is the building block upon which the Telecommunications Act of 1996 was constructed.

- In 1993, Congressman Boucher authored the Communications Competitiveness and Infrastructure Modernization Act, encouraging the deployment of an advanced communications infrastructure. The language of this legislation was included in a more comprehensive telecommunications measure which won approval from the House of Representatives.

- Also in 1993, he introduced the National Information Infrastructure Act, to target federal research and development funding to the accelerated development of high performance computing and high-speed networking services. This measure passed the House with overwhelming support.

- As a leading architect of the 1996 Telecommunications Competition Act, Congressman Boucher authored language which removed the legal barrier to the provision of telecommunications services by registered public utility holding companies, and these electric utilities are now bringing a new measure of competition to telecommunications markets as a result.

## RECENT INFORMATION TECHNOLOGY LEGISLATIVE INITIATIVES

### - The Digital Media Consumers' Rights Act

As a longtime champion of the rights of universities, libraries and consumers to make fair use of intellectual property, in 2002 Representative Boucher along with Representative John Doolittle introduced legislation backed by a broad coalition of consumer groups and technology companies to preserve the ability of consumers to use digital media in their homes in the manner most convenient to them. Many uses that consumers make of music, movies or other content, such as taping a television program to watch at another time, do not violate historic copyright law but may be unlawful when the material is delivered in a protected digital format which the user bypasses. The legislation, reintroduced in 2003 as H.R. 107, the Digital Media Consumers' Rights Act, restores these traditional personal use rights to consumers who lawfully acquire copyrighted works. It also ensures that equipment manufacturers will continue to have the right to design and produce products for which there are substantial lawful uses. Given the intention of some recording companies to add technology to compact discs that would block people from making personal use copies, the measure also requires these nonstandard CDs to be labeled so that people are aware before purchasing that the CD cannot be copied.

### - The Consumer Privacy Protection Act

In 2002, Representative Boucher and Representative Cliff Stearns introduced legislation to protect and enhance consumer privacy, both online and off-line. The Consumer Privacy Protection Act is designed to establish nationwide baseline privacy protections. It requires all merchants who gather personal information about consumers to disclose what information is collected and how that information is used. Consumers are then given an opportunity to decline to have the information about them collected. Consumers are also given an opportunity to limit the sale of such information to third parties. The House Energy and Commerce Committee Subcommittee on Commerce, Trade and Consumer Protection held a hearing on the measure in September 2002.

### - The Small Webcaster Settlement Act

In 2002 when small Internet radio stations were threatened with bankruptcy under federally imposed royalty rates, Representative Boucher with two colleagues introduced the Internet Radio Fairness Act that required a separate royalty rate for smaller, niche webcasters. This prompted a series of negotiations between small webcasters and recording companies over the licensing terms required for smaller webcasters to stream music over the Internet. A modified version of the measure was signed into law in December 2002.

### - The Music Online Competition Act

In 2001 Representative Boucher and Representative Chris Cannon introduced H.R. 2724, the Music Online Competition Act, to modernize copyright laws by removing obstacles that impede the deployment of legitimate services that make music inventories available on the Internet. The measure promoted the efficient and affordable delivery of music over the Internet in a manner that fairly compensates performing artists and song writers and recording companies for the use of their works. The Copyright Office endorsed many of the provisions of the legislation in a September 2001 Report to Congress and the House Judiciary Committee sought public comment on the legislation in 2002.

## - The Rural Local Broadcast Signal Act

Since guiding to passage the 1988 Satellite Home Viewer Act, Representative Boucher has been a champion of the delivery of multimedia content by satellite. He foresees the day when satellite companies will offer high-speed Internet access and telephony in addition to television programming which will enable satellite companies to serve small communities and rural homes that have limited other broadband alternatives.

In 1999, Congressman Boucher co-authored amendments to the Satellite Home Viewer Act which enabled commercial satellite companies to begin broadcasting "local into local" service through which local broadcast stations are uplinked to the satellite and then retransmitted into the markets of their origination. Using the provisions of the new law, the DBS companies are now offering local television signals in the largest television markets in the nation.

To expand the service to all 211 local television markets in the nation, Congressmen Boucher and Goodlatte introduced H.R. 3615, the Rural Local Broadcast Signal Act, to authorize the federal government to issue loan guarantees of approximately \$1.25 billion to enable the construction and launch of additional satellites to ensure complete national access to local TV stations. Their measure was signed into law in December 2000.

## - The Internet Growth and Development Act

In 1999, Representative Boucher and Representative Bob Goodlatte, also a co-chair of the Congressional Internet Caucus, authored a comprehensive legislative treatment of the major challenges which confronted the continued growth and development of the Internet. H.R. 1685, the Internet Growth and Development Act, was designed to ensure that the qualities which fueled the explosive growth of the Internet - freedom from government regulation, healthy competition, and open consumer access - would continue into the future.

The measure was designed to assure consumer choice through open competition in the selection of Internet service providers, encourage electronic commerce by authorizing electronic signatures, protect consumer privacy by attacking the problem of spam and promote the rapid deployment of high-speed Internet access services. The measure continues to serve as a model for later legislative initiatives in these areas.

## - The Trademark Cyberpiracy Prevention Act

In November of 1999, Congress approved and the President signed into law legislation authored by Congressman Boucher and Congressman James Rogan to outlaw cybersquatting. The law they wrote protects American businesses from unnecessary legal costs and promotes the growth of electronic commerce by punishing individuals who register domain names in an attempt to profit from the goodwill associated with an existing trademark.

## - Legislation to Implement WIPO Copyright Treaties: the Digital Millennium Copyright Act

Representative Boucher promoted the rights of universities, libraries and consumers to make fair use of intellectual property during Congressional consideration of legislation to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty. After initially authoring a 1997 measure to enhance copyright laws for the digital era by assuring fair use and first sale rights for digital works, promoting distance learning, and protecting encryption of copyrighted works against infringement, Representative Boucher actively sought to safeguard the rights of users when Congress later considered the Digital Millennium Copyright Act, a measure that extended sweeping new rights to copyright owners. Congressman Boucher's amendments to the 1998 DMCA were aimed at protecting the longstanding fair use rights of users against efforts to eliminate these rights whenever copyrighted works are encrypted.

## TECHNOLOGY TRIBUTES

- In 1994, Congressman Boucher received Federal Computer Week's Federal 100 Award for his work in the field of federal information technology policy.
- The October 2000 issue of Network Computing magazine listed Congressman Boucher as one of the last decade's 10 most valuable contributors to the growth of information technology for the aforementioned work.
- In 2002, Congressman Boucher was nominated along with others as Politician of the Year by Wired Magazine at the Fourth Annual Wired Rave Awards.